

IN THE CIRCUIT COURT FOR KNOX COUNTY, TENNESSEE

TOMMY CLARK

)

Plaintiff,

)

v.

) **No. 1-581-16**

**SAFECO INSURANCE COMPANY OF
AMERICA,**

) **JURY DEMANDED**

Defendant.

)

NOTICE OF FILING NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant Safeco Insurance Company of Illinois, incorrectly named in the Complaint as Safeco Insurance Company of America (hereinafter "Safeco"), hereby gives notice of the removal of this action to the United States District Court for the Eastern District of Tennessee, Knoxville Division. A copy of the Notice of Removal is attached hereto as **Exhibit A**.

Respectfully submitted,



Brian Neal (BPR #022532)
Briana M. Montminy (BPR #034622)
BURR & FORMAN LLP
511 Union Street, Ste. 2300
Nashville, TN 37219
Telephone: (615) 724-3200
Facsimile: (615) 724-3290

*Attorneys for Defendant Safeco Insurance Company
of Illinois improperly named as Safeco Insurance
Company of America*

CERTIFICATE OF SERVICE

I hereby certify that on the 3rd day of February 2017, I served a copy of the foregoing *Notice of Filing of Removal* via U.S. mail on the following:

W. Tyler Chastain
Nathaniel H. Evans
Bernstein, Stair & McAdams LLP
116 Agnes Road
Knoxville, Tennessee 37919





C O R P O R A T I O N S E R V I C E C O M P A N Y®

HZC / ALL

Transmittal Number: 16132439
Date Processed: 01/20/2017

Notice of Service of Process

Primary Contact: Arlene Smith
Liberty Mutual Insurance Company
175 Berkeley Street
Boston, MA 02116

Entity: Safeco Insurance Company Of America
Entity ID Number 2781189

Entity Served: Safeco Insurance Co of America

Title of Action: Tommy Clark vs. Safeco Insurance Company of America

Document(s) Type: Summons/Complaint

Nature of Action: Contract

Court/Agency: Knox County Circuit Court, Tennessee

Case/Reference No: 1-581-16

Jurisdiction Served: Tennessee

Date Served on CSC: 01/20/2017

Answer or Appearance Due: 30 Days

Originally Served On: TN Department of Commerce and Insurance on 1/5/2017

How Served: Certified Mail

Sender Information: Nathaniel H Evans
865-546-8030

Information contained on this transmittal form is for record keeping, notification and forwarding the attached document(s). It does not constitute a legal opinion. The recipient is responsible for interpreting the documents and taking appropriate action.

To avoid potential delay, please do not send your response to CSC

2711 Centerville Road Wilmington, DE 19808 (888) 690-2882 | sop@cscglobal.com

**STATE OF TENNESSEE
Department of Commerce and Insurance
500 James Robertson Parkway
Nashville, TN 37243-1131
PH - 615.532.5260, FX - 615.532.2788
Jerald.E.Gilbert@tn.gov**

January 5, 2017

Safeco Insurance Co Of America
2908 Poston Ave, % Corp Svc Co
Nashville, TN 37203
NAIC # 24740

Certified Mail
Return Receipt Requested
7016 0750 0000 2778 3632
Cashier # 29931

Re: Tommy Clark V. Safeco Insurance Co Of America
Docket # 1-581-16

To Whom It May Concern:

Pursuant to Tennessee Code Annotated § 56-2-504 or § 56-2-506, the Department of Commerce and Insurance was served January 5, 2017, on your behalf in connection with the above-styled proceeding. Documentation relating to the subject is herein enclosed.

Jerald E. Gilbert
Designated Agent
Service of Process

Enclosures

cc: Circuit Court Clerk
Knox County
400 Main Avenue, Rm M-30 C/C Bldg
Knoxville, Tn 37902

IN THE CIRCUIT COURT FOR KNOX COUNTY, TENNESSEE

TOMMY CLARK,

Plaintiff,

v.

NO. 1 - S81-16
JURY DEMANDED

SAFECO INSURANCE COMPANY
OF AMERICA,

Defendants.

SUMMONS

TO THE ABOVE NAMED DEFENDANT(S): **SAFECO INSURANCE COMPANY**
c/o Commissioner of Insurance
Tennessee Department of Commerce
and Insurance
500 James Robertson Parkway
Nashville, Tennessee 37203-1312

You are hereby summoned and required to serve upon, Nathaniel Evans, plaintiff's attorney, whose address is BERNSTEIN, STAIR & McADAMS LLP, 116 Agnes Road, Knoxville, Tennessee 37919, an answer to the Complaint, herewith served upon you within 30 days after service of this summons and complaint upon you, exclusive of the date of service. If you fail to do so, judgment by default can be taken against you for the relief demanded in the complaint.

Issued and tested this 21 day of December, 2016.

 **ADA**
FOR ASSISTANCE CALL
865 / 215-2952
TTY: 865 / 215-2497

Catherine Shanks
CLERK
NPapath
DEPUTY CLERK

NOTICE

To the defendant(s):

Tennessee Law provides a four thousand dollars (\$4,000.00) personal property exemption from execution or seizure to satisfy a judgment. If a judgment should be entered against you in this action and you wish to claim property as exempt, you must file a written list, under oath, or the items you wish to claim as exempt with the clerk of the court. The list may be filed at any time and may be changed by you thereafter as necessary; however, unless it is filed before the judgment becomes final, it will not be effective as to any execution or garnishment issued prior to the filing of the list. Certain items are automatically exempt by Law and do not need to be listed; these include items of necessary wearing apparel for yourself and your family and trunks or other receptacles necessary to contain such apparel, family portraits, the family Bible, and school books. Should any of these items be seized you would have the right to recover them. If you do not understand your exemption right or how to exercise it, you may wish to seek the counsel of a lawyer.

SERVICE INFORMATION

To the process server: Defendant, Safeco Insurance Company of America, is a corporation doing business in Knox County, Tennessee and may be served through the Commissioner of Insurance, 500 James Robertson Parkway, Tennessee Department of Commerce and Insurance, Nashville, Tennessee 37242-1204

RETURN

I received this summons on the _____ day of _____, 2016.

I hereby certify and return that on the _____ day of _____, 2016.

____ I served this summons and a complaint, request for admissions, and request for production of documents on defendant SouthEast Bank in the following manner:

____ I failed to serve this summons within 30 days after its issuance because:

Process Server

IN THE CIRCUIT COURT FOR KNOX COUNTY, TENNESSEE
FILED

TOMMY CLARK, 2016 DEC 21 PM 4 09

Plaintiff, CATHERINE F. QUIST
CIRCUIT COURT CLERK

v.

NO. 1 - S81-16
JURY DEMANDED

SAFECO INSURANCE COMPANY
OF AMERICA,

Defendant.

COMPLAINT

Plaintiff, Tommy Clark ("Mr. Clark"), hereby files the following Complaint against Safeco Insurance Company of America ("Safeco") and in support of the same states as follows:

I. PARTIES

1. Plaintiff, Tommy Clark, is a citizen and resident of Knox County, Tennessee and resides at 220 Henry Haynes Drive, Knoxville, Tennessee 37920.

2. Defendant, Safeco Insurance Company of America ("Safeco"), is a corporation doing business in Knox County, Tennessee, registered with the Tennessee Secretary of State and may be served through its registered agent, the Insurance Commissioner, at 500 James Robertson Parkway, Tennessee Department of Commerce and Insurance, Nashville, Tennessee 37242-1204.

II. JURISDICTION AND VENUE

3. Jurisdiction and venue are proper in Knox County, Tennessee as the accident at issue occurred within Knox County, Tennessee.

III. FACTUAL BACKGROUND

4. On or about August 27, 2015, Safeco, via its agent Madison Insurance Company, Inc., entered into an insurance policy agreement with Mr. Clark to insure a 2004 Ford Mustang Cobra S. (Insurance Policy No. F2647604 attached hereto as Exhibit A).

5. Insurance Policy No. F2647604 ("Clark Insurance Policy") included comprehensive insurance coverage for the 2004 Ford Mustang Cobra S ("Mustang") for which Mr. Clark paid premiums in the amount of \$362.10. (Exhibit A).

6. The Clark Insurance Policy period ran from February 28, 2015 to February 28, 2016.

7. At all times material, Mr. Clark timely paid his insurance premiums to Safeco.

8. In December of 2015, Mr. Clark attempted to start his Mustang. Because water had leaked into the engine during a rainstorm, the engine hydrolocked, causing significant damage to the engine such that it required complete replacement.

9. The replacement cost of the Mustang's engine is approximately \$35,000.00.

10. Prior to December 23, 2015, Mr. Clark submitted a claim for the damaged engine to Safeco under the Clark Insurance Policy.

11. Safeco denied Mr. Clark's claim related to his Mustang shortly after December 23, 2015.

12. Mr. Clark, at his own expense, retained an expert to confirm that the Mustang's engine had hydrolocked as the result of an accidental accumulation of water within the cylinder block.

13. On November 9, 2016, undersigned counsel submitted notice to Safeco that Mr. Clark's claim related to his Mustang should be paid because the damage was the result of an accident. (Letter to Safeco attached hereto as Exhibit B).

14. Undersigned counsel's letter to Safeco included a report from an expert with over 43 years of experience detailing exactly why the engine had been damaged accidentally.

15. On December 19, 2016, undersigned counsel received notification from Safeco that it stood by its denial of its claim.

COUNT I

BREACH OF CONTRACT

16. Plaintiff hereby reasserts Paragraphs 1 – 15 of the Complaint as if set forth fully herein.

17. In August of 2015, Defendant Safeco agreed to insure Mr. Clark's Ford Mustang against accidental damage. (Exhibit A).

18. Pursuant to the Clark Insurance Policy, Safeco had a duty to pay Mr. Clark the value of accidental damage to his vehicle under the comprehensive insurance provided by Safeco.

19. Mr. Clark accidentally damaged his Ford Mustang when, unbeknownst to him, water had leaked into the engine before he tried to start it. When Mr. Clark tried to

start the Mustang, it hydrolocked, which caused significant damage to the Mustang's engine.

20. At all times material, Mr. Clark complied with the Clark Insurance Policy.
21. Mr. Clark timely submitted a claim to be paid for damage to his Mustang.
22. Safeco has denied payment for damage to Mr. Clark's Mustang under the the Clark Insurance Policy.
23. As a result of Safeco's breach of contract, Mr. Clark has been damaged in an amount of not less than \$45,000.00, including but not limited to, loss of value of his Mustang, lost income, and attorney fees.

COUNT II

BAD FAITH VALUE TO PAY PROMPTLY

24. Plaintiff hereby reasserts Paragraphs 1 – 23 of the Complaint as if set forth fully herein.
25. Defendant Safeco was and is obligated to pay losses under any insurance policy they issue within sixty (60) days after a demand by the holder of the policy under which the loss occurred.
26. Safeco issued an insurance policy to Mr. Clark that covered accidental damage to his Mustang.
27. Mr. Clark made a demand for payment under the Clark Insurance Policy.
28. More than sixty (60) days have elapsed since Mr. Clark made his demand under the Clark Insurance Policy.
29. Defendant Safeco was notified of the value of Mr. Clark's loss and their obligation to pay by undersigned counsel in November of 2016. (Exhibit B).

30. Defendant Safeco has refused to pay the loss in bad faith and their failure to pay the loss has inflicted additional expenses, loss, and injury, including attorney fees, upon Mr. Clark.

31. As a result of Safeco's bad faith failure to pay, Mr. Clark has been damaged in an amount not less than \$35,000.00.

32. Mr. Clark is further entitled to an additional penalty of twenty-five percent (25%) of the liability of loss, attorney fees, and lost interest under Tenn. Code Ann. §56-7-101, et. seq. based on Safeco's bad faith failure to pay, for a total amount of \$43,750.00.

COUNT III

PUNITIVE DAMAGES

33. Plaintiff hereby reasserts Paragraphs 1 – 32 of the Complaint as if set forth fully herein.

34. As specifically set forth in Count II, Defendant Safeco intentionally, recklessly, and/or maliciously engaged in acts, omissions, and representations regarding the Clark Insurance Policy and their refusal to pay the loss.

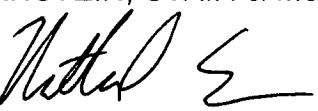
35. Based on the Defendant's intentional, reckless, and fraudulent acts and omissions set forth in this Complaint and pursuant to Hodges v. S.C. Toof, 833 S.W.2d 896 (Tenn. 1992), Plaintiff is entitled to punitive damages in an amount not less than \$120,000.00.

WHEREFORE, Plaintiff Tommy Clark respectfully requests and prays for the following relief:

1. That process issue and Safeco be served and be required to answer the Complaint as required by law;
2. That the Court find and award to Plaintiff and against Defendant, compensatory damages in an amount not less than \$35,000.00;
3. That, pursuant to Tenn. Code Ann. § 56-7-105, the Court find and award to Mr. Clark against Safeco and an additional twenty-five percent (25%) of the compensatory damages;
4. That, pursuant to Tenn. Code Ann. § 56-8-105, the Court find and award attorney fees to Mr. Clark against Safeco;
5. That the Court find and award to Plaintiff against Safeco punitive damages in an amount not less than \$120,000.00; and
6. That Plaintiff have such other, further and general relief to which he may show himself entitled upon a hearing of this cause.

Respectfully submitted this 21st day of December, 2016.

BERNSTEIN, STAIR & McADAMS LLP

By: 

W. TYLER CHASTAIN (BPR # 016029)
NATHANIEL H. EVANS (BPR # 026292)
BERNSTEIN, STAIR & MCADAMS LLP
116 Agnes Road
Knoxville, Tennessee 37919
(865) 546-8030
Attorney for Plaintiff Tommy Clark

FILED

2016 DEC 21 PM 4 09

CATHERINE F. QUIST
CIRCUIT COURT CLERK

EXHIBIT A



A Liberty Mutual Company

POLICY NUMBER: F2647604

**SAFECO INSURANCE COMPANY OF ILLINOIS
AUTOMOBILE POLICY DECLARATIONS**

NAMED INSURED:
TOMMY CLARK
LAURA L CLARK
220 HENRY HAYNES DR
KNOXVILLE TN 37920-8011

POLICY CHANGE
CHANGED EFFECTIVE: AUG. 27 2015
POLICY PERIOD FROM: FEB. 28 2015
TO: FEB. 28 2016

at 12:01 A.M. standard time at
the address of the insured as
stated herein.

AGENT:
MADISON INSURANCE GROUP INC
800 OAK RIDGE TPKE STE C104
OAK RIDGE TN 37830-6927

AGENT TELEPHONE:
(865) 425-7300

RATED DRIVERS TOMMY CLARK, CORY CLARK, LAURA L CLARK

2003 FORD	MUSTANG COBRA SVT 2 DOOR	ID# 1EAPP48YX3F446591
2014 FORD LOSS PAYEE	FUSION SE 4 DOOR SEDAN FORD MOTOR CREDIT	ID# 3FA6P0H95ER205920

Insurance is afforded only for the coverages for which limits of liability or premium charges are indicated.

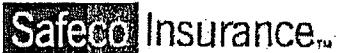
COVERAGE	2003 FORD PREMIUM	PREMIUMS	2014 FORD PREMIUM	PREMIUMS
LIABILITY: BODILY INJURY	\$100,000 Each Person \$300,000 Each Occurrence	\$ 244.10	\$100,000 Each Person \$300,000 Each Occurrence	\$ 304.80
PROPERTY DAMAGE	\$100,000 Each Occurrence	209.90	\$100,000 Each Occurrence	293.30
MEDICAL PAYMENTS	\$2,000	35.70	\$2,000	39.70
UNINSURED MOTORISTS: BODILY INJURY	\$100,000 Each Person \$300,000 Each Accident	67.30	\$100,000 Each Person \$300,000 Each Accident	80.00
PROPERTY DAMAGE	\$100,000 Each Accident Less \$200 Deductible	41.50	\$100,000 Each Accident Less \$200 Deductible	49.50
COMPREHENSIVE	Actual Cash Value Less \$1000 Deductible	70.50	Actual Cash Value Less \$1000 Deductible	139.30
COLLISION	Actual Cash Value Less \$1000 Deductible	417.70	Actual Cash Value Less \$1000 Deductible	651.50
ADDITIONAL COVERAGES: LOSS OF USE ROADSIDE ASSIST		8.70	\$35 Per Day/\$1050 Max	46.60 5.50
		TOTAL \$ 1,095.40		TOTAL \$ 1,610.20

You may pay your premium in full or in installments. There is no installment fee for the following billing plans: Full Pay, Annual 2-Pay. Installment fees for all other billing plans are listed below. If more than one policy is billed on the installment bill, only the highest fee is charged. The fee is:
\$2.00 per installment for recurring automatic deduction (EFT)
\$2.00 per installment for recurring credit card or debit card
\$5.00 per installment for all other payment methods

-CONTINUED-

P O BOX 515097, LOS ANGELES, CA 90051

Case 3:17-cv-00033-PLR-DCP Document 1-1 Filed 02/03/17 Page 14 of 24 PageID #: 19



A Liberty Mutual Company

POLICY NUMBER: F2647604

**SAFECO INSURANCE COMPANY OF ILLINOIS
AUTOMOBILE POLICY DECLARATIONS**

NAMED INSURED:

TOMMY CLARK
LAURA L CLARK
220 HENRY HAYNES DR
KNOXVILLE TN 37920-8011

POLICY CHANGE

CHANGED EFFECTIVE: MAR. 10 2015
POLICY PERIOD FROM: FEB. 28 2015
TO: FEB. 28 2016

at 12:01 A.M. standard time at
the address of the insured as
stated herein.

AGENT:

MADISON INSURANCE GROUP INC
800 OAK RIDGE TPKE STE C104
OAK RIDGE TN 37830-6927

AGENT TELEPHONE:
(865) 425-7300

RATED DRIVERS TOMMY CLARK, CORY CLARK, LAURA L CLARK

2011 FORD	MUSTANG GT	2 DOOR	ID# 1ZVBP8CF4B5167239
2014 FORD LOSS PAYEE	FUSION SE FORD MOTOR CREDIT	4 DOOR SEDAN	ID# 3FA6P0H95ER205920

Insurance is afforded only for the coverages for which limits of liability or premium charges are indicated.

COVERAGES	2011 FORD	LIMITS	PREMIUMS	2014 FORD	LIMITS	PREMIUMS
LIABILITY:						
BODILY INJURY		\$100,000 Each Person \$300,000 Each Occurrence	\$ 314.40		\$100,000 Each Person \$300,000 Each Occurrence	\$ 351.00
PROPERTY DAMAGE		\$100,000 Each Occurrence	266.30		\$100,000 Each Occurrence	334.80
MEDICAL PAYMENTS		\$2,000	38.30		\$2,000	46.00
UNINSURED MOTORISTS:						
BODILY INJURY		\$100,000 Each Person \$300,000 Each Accident	91.70		\$100,000 Each Person \$300,000 Each Accident	91.70
PROPERTY DAMAGE		\$100,000 Each Accident Less \$200 Deductible	52.60		\$100,000 Each Accident Less \$200 Deductible	52.60
COMPREHENSIVE		Actual Cash Value Less \$1000 Deductible	140.30		Actual Cash Value Less \$1000 Deductible	144.90
COLLISION		Actual Cash Value Less \$1000 Deductible	752.50		Actual Cash Value Less \$1000 Deductible	696.70
ADDITIONAL COVERAGES:						
LOSS OF USE					\$35 Per Day/\$1050 Max	49.70
ROADSIDE ASSIST			7.90			5.50
					TOTAL \$ 1,664.00	TOTAL \$ 1,772.90

You may pay your premium in full or in installments. There is no installment fee for the following billing plans: Full Pay, Annual 2-Pay. Installment fees for all other billing plans are listed below. If more than one policy is billed on the installment bill, only the highest fee is charged. The fee is:
\$2.00 per installment for recurring automatic deduction (EFT)
\$2.00 per installment for recurring credit card or debit card
\$5.00 per installment for all other payment methods

-CONTINUED-

**CLASSIC CAR ENDORSEMENT
RESTRICTED USE**

**IMPORTANT
PLEASE READ CAREFULLY**

(This endorsement is a part of your automobile insurance policy)

With respect to any auto insured as a Classic Car and rated for Restricted Use:

Coverage applies provided such auto is maintained primarily for pleasure use, is only occasionally driven to work or school, and is not driven more than 5,000 miles per year.

The Limit of Liability provision under Part D — Coverage for Damage to Your Auto is replaced by the following:

LIMIT OF LIABILITY

- A. Our limit of liability for a partial loss will be the lesser of the:
 - 1. Actual cash value of the stolen or damaged property; or
 - 2. Amount necessary to repair or replace the property; or
 - 3. Maximum limit of liability shown in the Declarations.
- B. Our limit of liability for a total loss will be the amount shown for each scheduled classic car which is agreed to be the value of **your covered auto**.
- C. Any depreciation of the value of the auto due to unavailability of any part of the auto does not constitute loss.

FILED

2016 DEC 21 PM 4 09

CATHERINE F. QUIST
CIRCUIT COURT CLERK

r

EXHIBIT B

BERNSTEIN
STAIR &
MCADAMS LLP
ATTORNEYS AT LAW

116 AGNES ROAD | KNOXVILLE, TN 37919
TELEPHONE 865-546-8030 | FAX 865-522-8879 | www.bsmlaw.com

L. CAESAR STAIR III
THOMAS N. MCADAMS
JAMES W. PARRIS
W. TYLER CHASTAIN
C. SCOTT TAYLOR
MARGO J. MAXWELL
ALLISON D. EASTERDAY

November 9, 2016

L. CAESAR STAIR IV
ELIZABETH MAXEY LONG
NATHANIEL H. EVANS
ELIZABETH M. TOWE

SPECIAL COUNSEL
DARYL R. FANSLER

Madison Insurance Group, Inc.
800 Oak Ridge Turnpike, Suite C104
Oak Ridge, Tennessee 37830-6927

Safeco Insurance
Post Office Box 515097
Los Angeles, California 90051

Re: Policy No. F2647604

Dear Sirs:

We represent Tommy Clark in regards to the above referenced matter. The information provided regards his claim for his 2003 Mustang Cobra SVT. His claim has been initially denied based upon the damage to his engine.

Apparently, Safeco has communicated that it would not pay the claim. The claim in this matter was denied due to the fact that Safeco took the position that the engine was damaged due to a nitrous explosion caused by Mr. Clark.

This vehicle has been modified for racing, which includes modification of the tube frame, racing slicks, parachute, nitrous oxide, special rear end and high stall conversion. The vehicle had been run previously without incident. Prior to the accident, Mr. Clark was out of town and it had rained for 3-4 days. The rain water entered the carburetor through the hood scoop which had no cover on it. No knowing what had happened, Mr. Clark tried to start the engine, it hydrolocked, damaging the block, heads, cam, carburetor, crank intake, lifters, gaskets, etc.

As set forth by our expert, who has 43 years of experience as a top fuel funny car driver and engine builder, the engine hydrolocked (Gary Litton Report Enclosed). As stated by Mr. Litton, the damage that occurred was due to rainwater in the cylinder having leaked through the carburetor before ignition. Upon cranking and finally starting the vehicle's engine, it hydrolocked, which resulted in significant damage. The engine

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CATHERINE F. QUIST
CIRCUIT COURT CLERK
FILED

Madison Insurance Group, Inc.
Safeco Insurance
November 9, 2016
Page 2 of 2

was destroyed due to the water in the cylinder and the engine trying to compress. The sparks plugs were not nipped on any of the 8 cylinders.

Further, as Mr. Litton advised, if the engine had been damaged by nitrous oxide the following would have had to occur:

1. The nitrous switch would have to be turned on;
2. The nitrous bottle would have to be turned on;
3. The engine would have had to be on full throttle in order to trigger the micro solenoid switch, which sprays a burst of nitrous at 850-1100 P.S.I. The nitrous must have sufficient gas and heat to burn – gas and heat that would not have been in the engine at startup.

The conditions for a nitrous explosion were not present given the information available. As set forth more fully in Mr. Litton's report, Safeco's reliance on its investigator's opinion is untenable – science, physics, engine build, and evidence in this case irrefutably support Mr. Clark's version of events. Accordingly, Safeco should pay the claim in this matter.

We request that this claim be paid in full or we will have no option but to move forward with litigation.

With best regards,


W. TYLER CHASTAIN

WTC/bv
cc: Mr. Tommy Clark

Investigators Incorporated
Gary & Kimberly Litton L.P.I., C.P.F.C.
224 Litton Drive
Seymour, TN 37865

State of Tennessee
PIC #0348

Office ☎ (865) 573-4181
24 Hour Fax ☎ (865) 577-1003

Visit our website at www.garylittoninvestigators.com
Email: kimberlylitton@gmail.com

VEHICLE CHANGES/MODIFICATIONS:

THIS CAR WAS COMPLETELY MODIFIED FOR RACING, INCLUDING THE TUBE FRAME, RACING SLICKS, PARACHUTE, NITROUS OXIDE, SPECIAL REAR END AND HIGH STALL CONVERSION.

INVESTIGATIVE OBJECTIVE:

DETERMINE IF THE ENGINE WAS DAMAGED.

FINDINGS:

CLAIMANT STATED THAT THE VEHICLE HAD BEEN SITTING AT HIS HOME/SHOP. CLAIMANT WAS OUT OF TOWN AND IT HAD RAINED FOR 3-4 DAYS. BECAUSE THE HOOD SCOOP HAD NO COVER ON IT, RAIN WATER LIKELY ENTERED THE CARBURETOR. WHEN THE CLAIMANT TRIED TO START THE ENGINE AFTER RETURNING FROM OUT OF TOWN, IT LOCKED UP AND THE ENGINE STOPPED FUNCTIONING.

THE HEAD GASKETS WERE BLOWN OUT AT THE THICKEST POINT, NOT BETWEEN THE CYLINDERS.

ONE PISTON WAS BROKEN.

THERE WAS WATER IN THE OIL.

THE SPARK PLUGS WERE NOT NIPPED ON ANY OF THE 8 CYLINDERS, AND THE SPARK PLUGS ARE SOME OF THE WEAKEST COMPONENTS IN THE ENGINES.

THE CAR HAS DEEP POCKETS MACHINED IN LOWER OR BOTTOM OF PISTONS. THE PISTONS AND CYLINDER BORE WOULD HOLD WATER ALONG AFTER COMING UP ON A POWER STROKE AND THIS WOULD CAUSE A DEAD STOP WHEN COMPRESSED AGAINST THE CYLINDER HEAD.

AFTER REVIEWING THE REPORT OF THE INVESTIGATOR SENT BY CLAIMANT'S INSURANCE COMPANY, I NOTED SEVERAL INCONSISTENCIES, OMISSIONS, AND INCORRECT STATEMENTS.

FIRST, THE INVESTIGATOR DID NOT MENTION IF THERE WAS WATER IN THE OIL. THIS WOULD BE A CLEAR SIGN OF HYDROLOCKING. I DETERMINED THAT THERE WAS WATER IN THE OIL.

SECOND, THE INVESTIGATOR FOUND NO SIGNIFICANT SIGNS OF RUST OR CORROSION, WHICH LED HIM TO CONCLUDE THAT THERE WAS NO EVIDENCE OF HYDROLOCKING. THIS IS AN INCORRECT CONCLUSION FOR MANY REASONS THAT I WILL COVER BELOW, BUT MAINLY BECAUSE THE PISTON VALVES WERE STAINLESS STEEL AND THE PISTONS, AND INTAKE COMPONENTS WERE ALUMINUM.

THIRD, THE INVESTIGATOR SEEKS TO HAVE PLACED EMPHASIS ON THE SCORING HE FOUND ON THE CYLINDER WALLS. THIS IS NORMAL AND IS CONSISTENT WITH A CAR THAT HAS BEEN RUN. IT IS IMPORTANT TO NOTE THAT THIS WAS NOT A NEW ENGINE. SO, THE SCORING ON THE CYLINDER WALLS IS NOT AN INDICATION OF NITROUS DETONATION.

THE ENGINE WAS NOT DISASSEMBLED BY EITHER THE INSURANCE INSPECTOR OR ME.

OPINION/CONCLUSION:

IT IS IN THE OPINION OF THE INVESTIGATOR, WITH 43 YEARS EXPERIENCE AS A TOP FUEL FUNNY CAR DRIVER AND ENGINE BUILDER, WHO RACED WITH A NITRO MOTOR WITH SUPER CHARGE, THAT THIS ENGINE HYDROLOCKED. IT WAS DUE TO RAIN WATER IN THE CYLINDER HAVING LEAKED THROUGH THE CARBURETOR. CRANKING THE ENGINE AND FINALLY STARTING IT FOR A BRIEF TIME CAUSED THE DAMAGE TO THE VEHICLE'S ENGINE. THE ENGINE WAS DESTROYED DUE TO THE WATER IN THE CYLINDER AND THE ENGINE TRYING TO COMPRESS.

DUE TO WATER IN THE CYLINDER FOR A SHORT PERIOD OF TIME AND HIGH TORQUE START NORMAL FOR THIS CAR, WHEN THE ENGINE TURNED OVER, THE WATER IN CYLINDERS WOULD HAVE CAUSED THE CAR TO HYDROLOCK. THE HYDROLOCKING THEN CAUSED MAJOR DAMAGE, ESPECIALLY AFTER THE ENGINE MULTIPLE START ATTEMPTS.

THE HYDROLOCKING WOULD HAVE RESULTED IN A DEAD STOP THAT WOULD HAVE CAUSED THE HEAD TO PUSH UP, STRETCHING THE HEAD STUDS. THE PISTONS WOULD HAVE BEEN PUSHED DOWN AND DAMAGE TO THE PISTONS, RINGS AND RODS WOULD HAVE OCCURRED. THIS SITUATION CAN CAUSE THE RODS TO BEND OR BREAK, AND THE CRANK TO CRACK. THE CAM WILL ALWAYS TWIST AND CAN CRACK THE BLOCK. THERE IS POSSIBLE DAMAGE TO THE BLOCK, HEADS, CAM, CARBURETOR, CRANK INTAKE, LIFTERS, GASKETS, ETC.

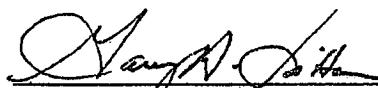
THE INSURANCE INVESTIGATOR'S DETERMINATIONS DO NOT MAKE SENSE. IF THE ENGINE WOULD HAVE BEEN RUNNING UNDER FULL THROTTLE WITH NITROUS, THE ENGINE WOULD HAVE SHOWN SIGNS OF RUST. YOU MUST HAVE HEAT, WATER AND OXYGEN IN ORDER TO RUST OR CORRODE. THE PRESENCE OF WATER AS NOTED BY THE INVESTIGATOR WOULD LEAD TO RUST ON CERTAIN COMPONENTS ONLY IF THE ENGINE WAS HOT ENOUGH TO USE NITROUS.

THE INSURANCE INVESTIGATOR'S ERROR MAY BE BECAUSE HE IS NOT FAMILIAR WITH HOW A NITROUS SYSTEM WORKS. IF THIS ENGINE HAD BEEN DAMAGED BY NITROUS OXIDE THE FOLLOWING WOULD HAVE HAD TO OCCUR:

- 1) NITROUS SWITCH WOULD HAVE TO BE TURNED ON.
- 2) NITROUS BOTTLE WOULD HAVE TO BE TURNED ON.
- 3) THE ENGINE MUST BE UNDER FULL THROTTLE TO TRIGGER THE MICRO

SOLENOID SWITCH, WHICH SPRAYS A BURST OF NITROUS AT 850-1100 P.S. I.
NITROUS MUST HAVE GAS TO BURN.

NITROUS CANNOT BE USED UNLESS THE ENGINE IS AT FULL THROTTLE AND HOT. IF
THE ENGINE WAS AT FULL THROTTLE AND HOT, THEN IT WOULD BE MORE LIKELY
THAT RUST WOULD OCCUR. IN OTHER WORDS, RUST WOULD HAVE HELPED PROVE
A NITROUS DETONATION, NOT RULE IT OUT.



Gary A. Litton - Private Investigator #773

IN THE CIRCUIT COURT FOR KNOX COUNTY, TENNESSEE
FILED

TOMMY CLARK,

2016 DEC 21 PM 4 09

Plaintiff,

CATHERINE F. QUIST

CIRCUIT COURT CLERK

v.

NO. 1-581-16

JURY DEMANDED

SAFECO INSURANCE COMPANY
OF AMERICA,

Defendants:

COST BOND

I, TOMMY CLARK, as Principal, and Bernstein, Stair & McAdams LLP, as Surety, are held and firmly bound unto the Clerk of the Knox County Chancery Court, for the payment of all costs awarded against the principal. To that end we bind ourselves our heirs, executors and administrators.

The Principal is commencing legal proceeding in the Knox County Circuit Court. If the Principal shall pay all costs which are adjudged against her, then this obligation is void. If the Principal fails to pay, then the surety shall undertake to pay all costs adjudged against the Principal. Mandated at T.C.A. § 20-12-120, et seq.

PRINCIPAL

Tommy Clark
TOMMY CLARK
220 Henry Haynes Drive
Knoxville, Tennessee 37920

SURETY

BERNSTEIN, STAIR & MCADAMS LLP

BY: W. Tyler Chastain

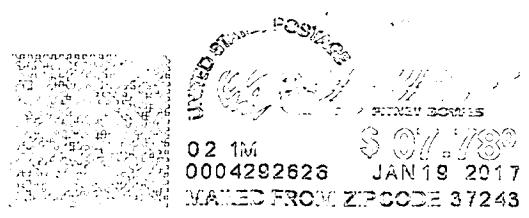
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STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TENNESSEE 37243

7016 0750 0000 2778 3632



1ST CLASS



7016 0750 0000 2778 3632 01/05/2017
SAFECO INSURANCE CO OF AMERICA
2908 POSTON AVE, % CORP SVC CO
NASHVILLE, TN 37203